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EXAMINER

THEODORE, MAGALI P

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

12/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/532,120

**Applicant(s)**

SCHWAIGER ET AL.

**Examiner**

Magali P. Théodore

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-41 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 24-41 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 09 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's amendment filed September 9, 2008 was received.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 24-41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

**Claim 24** recites a drive means for independently moving the two calibration tool mounting stations. The specification discloses belts as a drive means, but these belts appear to move only the work [paragraphs 0028 and 0049] and not the calibration tool mounting stations.

If applicant believes that the specification provides support for the subject matter regarded as new matter above, applicant is asked to provide the page (or paragraph) and line numbers where such support is found.

***Claim Rejections - 35 USC § 103***

5. Claims 24-28, 30-32 and 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Zen in view of Smoluk and Pürstinger (US 6,066,288).

Regarding **Claim 24**, De Zen teaches a device for the cooling and calibrating of plastic profiles with a carrier table (see Fig. 1) carrying at least two tool mounting stations (see Fig. 1) on which the calibrator tools groups (see Fig. 1 at 12a, 12b, 12c, 13a, 13b, and 13c) can be detachably mounted and can either hold a separate calibrator tool group or may be coupled to support a single calibrator group.

De Zen is silent regarding the calibrator tools being shifted in the longitudinal direction. Smoluk teaches longitudinally adjusting calibrator tools in a multiple stream extrusion line (see page 49 column 3; see also page 50 column 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use calibrating tools that are longitudinally adjustable in the method by De Zen because Smoluk teaches calibrating tools that are longitudinally adjustable allow the tools to align with extrudate travel without having to reposition the entire machine (see page 50 column 1).

Smoluk does not disclose drive means for the mounting stations. However, Pürstinger teaches using a drive means to longitudinally displace a mounting station (see column 8 lines 19-22) upon which calibration tools are directly mounted (see figure 1 at 13-14). Pürstinger's drive means enables the mounting tool to both move a single calibrator tool group. Pürstinger's drive means allows for "deliberate and controlled" displacement of the mounting station (see column 8 line 20). Therefore it would have

been obvious to one of ordinary skill in the art to add a drive means to Smoluk's mounting stations because Pürstinger teaches using a drive means to enhance the operator's control of the station's displacement.

Regarding **Claim 25**, Smoluk teaches the mounting stations are height adjustable (see page 49 column 3; see also page 50 column 1).

Regarding **Claim 26**, Smoluk teaches the tool mounting stations are tiltable about their longitudinal axes (see page 49 column 3; see also page 50 column 1).

Regarding **Claim 27**, Smoluk teaches the mounting stations may be moved in longitudinal direction, in transversal direction and in vertical direction, and can be tilted about a longitudinal axis (see page 49 column 3; see also page 50 column 1).

Regarding **Claim 28**, De Zen teaches that the tool mounting stations hold at least one dry calibrator unit and at least one calibrating tank (see Fig. 1 at 12a, 12b, 12c, 13a, 13b, 13c, 14 and 15; see also page 7 line 22-31).

Regarding **Claim 30**, De Zen teaches independently controlled vacuum connections (see Fig. 1 at 14') and pumps (see Fig. 1 at 14) provided to the two calibrator groups.

Regarding **Claim 31**, De Zen teaches independently controlled water connections (see Fig. 1 at 16) provided to the two calibrator groups.

Regarding **Claim 32**, De Zen teaches a take-off device for plastic profiles which is configured as a caterpillar belt puller with two parallel pairs of caterpillar belts provided side by side (see Fig. 2 at 17 and 18). The caterpillar belts are capable of

being moved independently of each other (see page 8 line 14-21) or both together for a single profile stream (see Fig. 13).

Regarding **Claim 35**, De Zen teaches that the distance between the middle axes of the caterpillar belts is adjustable (see page 10 line 31-34). In addition, adjustability is not a patentable advance. In re Stevens, 212 F.2d 197, 101 USPQ 284 (CCPA 1954).

Regarding **Claim 36**, De Zen teaches cutting the two profile streams by two cutting tools that are moveable independently of each other in the longitudinal direction (see page 11 line 33- 34; see also page 12 line 1-15; see also Figure 8 at 71, 72, 75 and 77).

Regarding **Claim 37**, De Zen teaches the cutting tools are placed side by side (see page 11 line 33-34; see also page 12 line 1-15; see also Figure 8 at 71, 72, 75 and 77).

Regarding **Claim 38**, De Zen does not clearly teach utilizing a third cutting tool. Smoluk teaches that a variety of cutting methods and devices are used depending upon a variety of factors such as cutting accuracy, cutting efficiency, cutting uniformity, etc. (see page 50 column 3; see also page 51). Therefore, one of ordinary skill in the art at the time of the invention would recognize that a third cutting tool could be added to the device taught by De Zen based upon the desired cutting accuracy, efficiency and uniformity. Furthermore, adding a third cutting tool is mere duplication of parts. "Mere duplication of parts has no patentable significance." In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

Regarding **Claim 39**, De Zen teaches utilizing cutting tools that are separately moveably in the longitudinal direction (see page 11 line 33-34; see also page 12 line 1-15; see also Figure 8 at 71, 72, 75 and 77). The addition of another cutting tool is merely duplication of parts. Thus, a third cutting tool would move in the same direction as the other cutting tools.

Regarding **Claim 40**, De Zen teaches using saws as cutting tools (Figure 8 at 77).

Regarding **Claim 41**, De Zen is silent regarding the cutting tools being configured as knives. Smoluk teaches using saws or knives as cutting tools in a multiple stream extrusion process (see page 50 column 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use knives as the cutting tools in the method taught by De Zen because Smoluk teaches the knives are a known alternative to saws in a multiple stream extrusion process (see page 50 column 3; see also page 51). Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use knives as the cutting tool in the method taught by De Zen because one of ordinary skill in the art would have been able to carry out such a substitution to achieve the predictable result of cutting an extrudate in a multiple stream extrusion process. "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 82 USPQ2d 1385 (2007).

6. Claims 29 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Zen in view of Smoluk and Pürstinger as applied to claim 24 and 32 above, and further in view of Magazin Extrusion.

Regarding **Claim 29**, De Zen does not clearly teach the calibrator table moving in the longitudinal direction. Magazin Extrusion teaches a longitudinally movable calibration table (see Figure on page 106; see also column 2 last paragraph). A person of ordinary skill in the art, upon reading Magazin Extrusion, would have recognized that a longitudinally movable calibration table is one of a finite number of devices known to be useful for dual extrusion equipment. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to try the calibration table of Magazin Extrusion in the method by De Zen in view of Smoluk and Pürstinger because a person with ordinary skill has good reason to pursue the known option within his or her technical grasp. "A person of ordinary skill has good reason to pursue the known option within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense." KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 82 USPQ2d 1385 (2007).

Regarding **Claim 33**, De Zen is silent regarding separating the caterpillar pairs by a removable wall. Magazin Extrusion teaches utilizing a wall between two profile stream lines in a process (see Figure on page 106). Furthermore, it is well known to delineate two areas using a removable wall, partition, or guard. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a wall to



delineate the two caterpillar pairs because a removable wall separates the two different processes which reduces undesired contamination between profile lines.

Regarding **Claim 34**, De Zen teaches that the caterpillar belt pairs can be connected to pull a single profile stream (see Fig. 13; see page 14 line 28-30).

### ***Response to Arguments***

7. Applicant's arguments with respect to claim 24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Magali P. Théodore whose telephone number is (571) 270-3960. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina A. Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Magali P. Théodore/  
Examiner, Art Unit 1791

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/Christina Johnson/

Supervisory Patent Examiner, Art Unit 1791